

Doc Code: AP.PRE.REQ

PTO/SB/33 (07-09)

Approved for use through 07/31/2012. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional)  S. KAMAT 3-5									
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>July 11, 2011</u> Signature <u>/Elizabeth Schumacher/</u>  Typed or printed name <u>Elizabeth Schumacher</u>		Application Number  10/670,940	Filed  September 25, 2003								
		First Named Inventor  Sanjay D. Kamat, et al									
		Art Unit  2443	Examiner  Asghar H. Bilgrami								
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table style="width: 100%; border: none;"><tr><td style="width: 50%; vertical-align: top;"><input type="checkbox"/> applicant/inventor.</td><td style="width: 50%; text-align: right; vertical-align: top;"><u>/Steven J. Hanke/</u> Signature</td></tr><tr><td style="vertical-align: top;"><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</td><td style="text-align: right; vertical-align: top;"><u>Steven J. Hanke</u> Typed or printed name</td></tr><tr><td style="vertical-align: top;"><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>58076</u></td><td style="text-align: right; vertical-align: top;"><u>972-480-8800</u> Telephone number</td></tr><tr><td style="vertical-align: top;"><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</td><td style="text-align: right; vertical-align: top;"><u>July 11, 2011</u> Date</td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>				<input type="checkbox"/> applicant/inventor.	<u>/Steven J. Hanke/</u> Signature	<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	<u>Steven J. Hanke</u> Typed or printed name	<input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>58076</u>	<u>972-480-8800</u> Telephone number	<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____	<u>July 11, 2011</u> Date
<input type="checkbox"/> applicant/inventor.	<u>/Steven J. Hanke/</u> Signature										
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	<u>Steven J. Hanke</u> Typed or printed name										
<input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>58076</u>	<u>972-480-8800</u> Telephone number										
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____	<u>July 11, 2011</u> Date										
<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.											

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Sanjay D. Kamat, *et al.*  
Serial No.: 10/670,940  
Filed: September 25, 2003  
Title: SYSTEM AND METHOD FOR INCREASING OPTIMAL ALTERNATIVE  
NETWORK ROUTE CONVERGENCE SPEED AND BORDER  
GATEWAY ROUTER INCORPORATING THE SAME  
Grp./A.U.: 2443  
Examiner: Asghar H. Bilgrami  
Confirmation No.: 2055

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

I hereby certify that this correspondence is being electronically filed  
with USPTO on:  
July 11, 2011 (Date)  
  
Elizabeth Schumacher  
(Printed or typed name of person signing the certificate)  
  
/Elizabeth Schumacher/  
(Signature of the person signing the certificate)

Sir:

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

The Appellants have carefully considered this application in connection with the Examiner's Final Action electronically delivered March 17, 2011 (hereinafter "Office Action") and the Advisory Action electronically delivered June 16, 2011 (hereinafter "Advisory Action"). The Appellants respectfully request a pre-appeal brief review of this application in view of the following remarks.

## REMARKS/ARGUMENTS

Claims 1-20 are currently pending in the application.

### **I. Rejection of Claims 1-20 under 35 U.S.C. §103**

The Examiner has rejected Claims 1-20 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,393,486 to Pelavin, *et al.* (hereinafter “Pelavin”) and U.S. Patent Application Publication No. 2002/0021675 to Feldmann (hereinafter “Feldmann”). The Appellants respectfully disagree for the reasons given below.

#### CITED PORTIONS OF FELDMANN DO NOT DISQUALIFY ROUTES BASED ON REACHABILITY

At Item 2 at the middle of page 3 of the Office Action, the Examiner recognizes that:

Pelavin did not explicitly disclose an active route to a domain becoming a withdrawn route on an indication based on loopback address associated with the nodes {autonomous systems} through which the said withdrawn route passed, of a reachability of said each of said nodes...

To cure this deficiency of Pelavin, the Examiner cites paragraph [0036] of Feldmann. Paragraph [0036] of Feldmann states:

...Each BGP advertisement concerns a particular prefix and includes a list of ASes along the path, as well as other attributes. BGP advertisements are then exchanged (*sic*) over BGP sessions between pairs of routers...The ISP employs local policies to...decide whether to advertise this route to neighboring ASes. BGP policies can filter unwanted advertisements...BGP export policies determine whether, and what, to advertise to each BGP peer...The remote end point is identified by IP address which may correspond to a particular interface or the loopback address...

At Item 2 at the top of page 4 and at Item 11 at the top of page 12, the Examiner states:

BGP is a distance vector protocol that constructs paths by successively propagating reachability information (I.E advertisements)...BGP policies can filter unwanted advertisements (I.E “disqualifying alternative routes”) and assign local preferences based on variety of attributes.

While paragraph [0036] of Feldmann teaches that the advertisements include a list of autonomous systems along a path, paragraph [0036] does NOT teach that these autonomous systems are necessarily reachable. Paragraph [0036] of Feldmann teaches that the advertisements merely include a list of autonomous system, irrespective of the reachability of each autonomous system. Furthermore, paragraph [0036] of Feldmann is explicit in teaching that a decision to advertise a route is based on local policies, NOT on reachability. There is no teaching in paragraph [0036] that these policies even consider reachability of each autonomous system and, as such, these policies can NOT disqualify routes based on indications of reachability of a node. As such, filtering unwanted advertisements as taught in Feldmann does NOT disqualify routes based on indications of reachability as recited in pending independent Claims 1, 8, and 15.

#### LOOPBACK ADDRESS OF CITED PORTIONS OF FELDMAN DO NOT INDICATE REACHABILITY OF A NODE

The only mention of loopback addresses in paragraph [0036] is, as noted above, that a remote endpoint is identified by an IP address which may correspond to a loopback address. There is no teaching in paragraph [0036] of Feldmann that these loopback addresses corresponding to IP addresses of remote endpoints indicate a reachability of a node. As such, even if paragraph [0036] of Feldmann taught disqualifying routes based on indications of reachability of a node, it does NOT teach that the indications are based on a loopback address as recited in pending independent Claims 1, 8, and 15.

#### CONCLUSION

Since the cited portion of Feldmann does not teach the limitations the Examiner recognizes that the cited portions of Pelavin do not teach, the cited combination of the cited portions of Pelavin and Feldmann, as applied by the Examiner, does not provide a *prima facie* case of obviousness for

pending independent Claims 1, 8, and 15 and Claims that depend thereon. Accordingly, the Appellants respectfully request the Review Panel to remove the §103(a) rejection of Claims 1-20 and allow issuance thereof.

## **II. Conclusion**

In view of the foregoing remarks, the Appellants respectfully submit that all of the Claims currently pending in this application are in condition for allowance and therefore earnestly solicit a Notice of Allowance for Claims 1-20.

The Appellants request the Reviewers to telephone the undersigned agent of record at (972) 480-8800 if such would further or expedite the prosecution of the present application. The Commissioner is hereby authorized to charge any fees, credits or overpayments to Deposit Account 08-2395.

Respectfully submitted,

**HITT GAINES, P.C.**

A handwritten signature in black ink, appearing to read "Steven J. Hanke".

Steven J. Hanke  
Registration No. 58,076

Dated: July 11, 2011

P.O. Box 832570  
Richardson, Texas 75083  
(972) 480-8800